

AMENDED IN ASSEMBLY MAY 14, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1851**

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**Introduced by Assembly Member Bradford**

February 19, 2014

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An act to amend ~~and repeal~~ Section 46601 of the Education Code, relating to school attendance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1851, as amended, Bradford. School attendance: interdistrict attendance.

Existing law authorizes the governing boards of 2 or more school districts to enter into an agreement for the interdistrict attendance of pupils who are residents of the school districts. If the governing board of either of 2 school districts subject to such an agreement fails to approve a request for a permit to attend another school district that is also a party to the agreement within 30 calendar days after the person having legal custody of a pupil has requested the permit, or, in the absence of an agreement between the school districts, fails or refuses to enter into an agreement, the person requesting the permit shall be advised of the right to appeal to the county board of education, as specified. Existing law requires the county board of education, within 30 calendar days after the appeal is filed, to determine whether the pupil should be permitted to attend the school district in which the pupil desires to attend and the applicable period of time, unless the county board of education is located in a class 1 or class 2 county, as defined, in which case the county board of education, until July 1, 2015, is required to make this determination within 40 schooldays.

This bill ~~would delete the July 1, 2015, repeal date thereby indefinitely requiring~~ *would, until July 1, 2018, require* a county board of education located in a class 1 or class 2 county, as defined, to determine within 40 schooldays whether the pupil should be permitted to attend the school district in which the pupil desires to attend and the applicable period of ~~time~~ *attendance*. The bill would make nonsubstantive changes to ~~this provision~~ *these provisions*.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 46601 of the Education Code, as amended  
2 by Section 2 of Chapter 87 of the Statutes of 2011, is amended to  
3 read:

4 46601. (a) If, within 30 calendar days after the person having  
5 legal custody of a pupil has so requested, the governing board of  
6 either school district fails to approve interdistrict attendance in the  
7 current term, or, in the absence of an agreement between the school  
8 districts, fails or refuses to enter into an agreement, the school  
9 district denying the permit, or, in the absence of an agreement, the  
10 school district of residence, shall advise the person requesting the  
11 permit of the right to appeal to the county board of education.

12 (b) If, within 14 calendar days after the commencement of  
13 instruction in a new term in each of the school districts,  
14 respectively, when the person having legal custody of a pupil has  
15 so requested separately of each school district not later than 30  
16 calendar days before the commencement of instruction in that term  
17 in that school district, the governing board of either school district  
18 fails to approve interdistrict attendance in that term, or, in the  
19 absence of an agreement between the school districts to permit  
20 that attendance, fails or refuses to enter an agreement, the school  
21 district denying the permit, or, in the absence of an agreement, the  
22 school district of residence, shall advise the person requesting the  
23 permit of the right to appeal to the county board of education.

24 (c) Notifying school districts shall also, in all instances, advise  
25 persons making unsuccessful requests for interdistrict attendance  
26 of all of the following:

27 (1) The person having legal custody may appeal, within 30  
28 calendar days of the failure or refusal to issue a permit, or to enter

1 into an agreement allowing the attendance, to the county board of  
2 education having jurisdiction over the school district of residence  
3 of the parent or legal guardian or person having legal custody.  
4 Failure to appeal within the required time is good cause for denial  
5 of an appeal. An appeal shall be accepted only upon verification  
6 by the county board of education's designee that appeals within  
7 the school districts have been exhausted. If new evidence or  
8 grounds for the request are introduced, the county board of  
9 education may remand the matter for further consideration by the  
10 school district or districts. In all other cases, the appeal shall be  
11 granted or denied on its merits.

12 (2) (A) (i) The county board of education shall, unless clause  
13 (ii) applies, within 30 calendar days after the appeal is filed,  
14 determine whether the pupil should be permitted to attend in the  
15 school district in which the pupil desires to attend and the  
16 applicable period of ~~time~~: *attendance*.

17 (ii) The county board of education in a class 1 or class 2 county  
18 shall, within 40 schooldays after the appeal is filed, determine  
19 whether the pupil should be permitted to attend in the school  
20 district in which the pupil desires to attend and the applicable  
21 period of ~~time~~: *attendance*.

22 (B) In the event that compliance by the county board of  
23 education within the time requirement for determining whether  
24 the pupil should be permitted to attend in the school district in  
25 which the pupil desires to attend is impractical, the county board  
26 of education or the county superintendent of schools, for good  
27 cause, may extend the time period for up to an additional five  
28 schooldays. The county *board of education* shall provide adequate  
29 notice to all parties of the date and time of any hearing scheduled  
30 and of the opportunity to submit written statements and  
31 documentation and to be heard on the matter pursuant to rules and  
32 regulations adopted by the county board of education in accordance  
33 with this chapter. The county board of education's rules may  
34 provide for the granting of continuances upon a showing of good  
35 cause. The county board of education shall render a decision within  
36 three schooldays of any hearing conducted by the county board of  
37 education unless the person who filed the appeal requests a  
38 postponement.

39 (C) In a class 1 or class 2 county, the county board of  
40 education's rules may provide for any hearing pursuant to this

1 section to be conducted by a hearing officer pursuant to Chapter  
2 14 (commencing with Section 27720) of Part 3 of Division 2 of  
3 Title 3 of the Government Code, or by an impartial administrative  
4 panel of three or more certificated persons appointed by the county  
5 board of education. Section 27722 of the Government Code applies  
6 to a hearing by an impartial administrative panel and, for purposes  
7 of this section, the term “hearing officer” in Section 27722 of the  
8 Government Code includes an impartial administrative panel. A  
9 member of the impartial administrative panel shall not be a member  
10 of the county board of education, nor be employed by the school  
11 district of residence or the school district of desired attendance.

12 (D) The definitions of “class 1 county” and “class 2 county” in  
13 subdivision (e) of Section 48919.5 apply to this section. If the  
14 hearing officer is not authorized to decide whether the pupil should  
15 be permitted to attend in the school district in which the pupil  
16 desires to attend, the county board of education, within 10 days of  
17 receiving the recommended decision pursuant to subdivision (b)  
18 of Section 27722 of the Government Code, shall render a decision.

19 (3) The county supervisor of attendance, or other designee of  
20 the county superintendent of schools, shall investigate to determine  
21 whether local remedies in the matter have been exhausted and to  
22 provide any additional information deemed useful to the county  
23 board of education in reaching a decision.

24 (4) If the interdistrict attendance involves school districts located  
25 in different counties, the county board of education having  
26 jurisdiction over the school district denying a permit, or refusing  
27 or failing to enter into an agreement to allow for the issuance of a  
28 permit, shall have jurisdiction for purposes of an appeal. If both  
29 school districts deny a permit, or refuse or fail to enter into an  
30 agreement to allow for the issuance of a permit, the county board  
31 of education having jurisdiction over the school district of residence  
32 shall have jurisdiction for purposes of an appeal and, upon granting  
33 a pupil’s appeal, shall seek concurrence in the decision by the  
34 county board of education of the other county—~~which~~ *that* shall  
35 provide adequate opportunity for the school district under its  
36 jurisdiction to be heard on the matter before making a decision. If  
37 the two county boards of education do not then concur, the pupil’s  
38 appeal shall be denied.

39 (5) Pupils who are under consideration for expulsion, or who  
40 have been expelled pursuant to Sections 48915 and 48918, may

1 not appeal interdistrict attendance denials or recisions while  
2 expulsion proceedings are pending, or during the term of the  
3 expulsion.

4 *(d) This section shall become inoperative on July 1, 2018, and,*  
5 *as of January 1, 2019, is repealed, unless a later enacted statute,*  
6 *that becomes operative on or before January 1, 2019, deletes or*  
7 *extends the dates on which it becomes inoperative and is repealed.*

8 ~~SEC. 2. Section 46601 of the Education Code, as added by~~  
9 ~~Section 3 of Chapter 87 of the Statutes of 2011, is repealed.~~

10 SEC. 2. *Section 46601 of the Education Code, as added by*  
11 *Section 3 of Chapter 87 of the Statutes of 2011, is amended to*  
12 *read:*

13 46601. (a) If, within 30 calendar days after the person having  
14 legal custody of a pupil has so requested, the governing board of  
15 either school district fails to approve interdistrict attendance in the  
16 current term, or, in the absence of an agreement between the *school*  
17 districts, fails or refuses to enter into an agreement, the *school*  
18 district denying the permit, or, in the absence of an agreement, the  
19 *school* district of residence, shall advise the person requesting the  
20 permit of the right to appeal to the county board of education.

21 (b) If, within 14 calendar days after the commencement of  
22 instruction in a new term in each of the school districts,  
23 respectively, when the person having legal custody of a pupil has  
24 so requested separately of each *school* district not later than 30  
25 calendar days ~~prior to~~ *before* the commencement of instruction in  
26 that term in that *school* district, the governing board of either *school*  
27 district fails to approve interdistrict attendance in that term, or, in  
28 the absence of an agreement between the *school* districts to permit  
29 that attendance, fails or refuses to enter an agreement, the *school*  
30 district denying the permit, or, in the absence of an agreement, the  
31 *school* district of residence, shall advise the person requesting the  
32 permit of the right to appeal to the county board of education.

33 (c) Notifying *school* districts shall also, in all instances, advise  
34 persons making unsuccessful requests for interdistrict attendance  
35 of all of the following:

36 (1) The person having legal custody may appeal, within 30  
37 calendar days of the failure or refusal to issue a permit, or to enter  
38 into an agreement allowing the attendance, to the county board of  
39 education having jurisdiction over the *school* district of residence  
40 of the parent or legal guardian or person having legal custody.

1 Failure to appeal within the required time is good cause for denial  
2 of an appeal. An appeal shall be accepted only upon verification  
3 by the county ~~board's~~ *board of education's* designee that appeals  
4 within the *school* districts have been exhausted. If new evidence  
5 or grounds for the request are introduced, the county board *of*  
6 *education* may remand the matter for further consideration by the  
7 *school* district or districts. In all other cases, the appeal shall be  
8 granted or denied on its merits.

9 (2) (A) The county board of education shall, within 30 calendar  
10 days after the appeal is filed, determine whether the pupil should  
11 be permitted to attend in the *school* district in which the pupil  
12 desires to attend and the applicable period of ~~time~~ *attendance*.

13 (B) In the event that compliance by the county board *of*  
14 *education* within the time requirement for determining whether  
15 the pupil should be permitted to attend in the *school* district in  
16 which the pupil desires to attend is impractical, the county board  
17 *of education* or the county superintendent of schools, for good  
18 cause, may extend the time period for up to an additional five  
19 schooldays. The county *board of education* shall provide adequate  
20 notice to all parties of the date and time of any hearing scheduled  
21 and of the opportunity to submit written statements and  
22 documentation and to be heard on the matter pursuant to rules and  
23 regulations adopted by the county board of education in accordance  
24 with this chapter. The county board *of education's* rules may  
25 provide for the granting of continuances upon a showing of good  
26 cause. The county board of education shall render a decision within  
27 three schooldays of any hearing conducted by the *county board of*  
28 *education* unless the person who filed the appeal requests a  
29 postponement.

30 (C) In a class 1 or class 2 county, the county board *of*  
31 *education's* rules may provide for any hearing pursuant to this  
32 section to be conducted by a hearing officer pursuant to Chapter  
33 14 (commencing with Section 27720) of Part 3 of Division 2 of  
34 Title 3 of the Government Code, or by an impartial administrative  
35 panel of three or more certificated persons appointed by the county  
36 board of education. Section 27722 of the Government Code ~~is~~  
37 ~~applicable~~ *applies* to a hearing by ~~any~~ *an* impartial administrative  
38 panel and, for purposes of this section, the term "hearing officer"  
39 in Section 27722 of the Government Code includes an impartial  
40 administrative panel. ~~No~~ A member of the impartial administrative

1 panel shall *not* be a member of the county board of education, nor  
2 be employed by the school district of residence or the *school*  
3 district of desired attendance.

4 (D) The definitions of “class 1 county” and “class 2 county” in  
5 subdivision (e) of Section 48919.5 apply to this section. If the  
6 hearing officer is not authorized to decide whether the pupil should  
7 be permitted to attend in the *school* district in which the pupil  
8 desires to attend, the county board of education, within 10 days of  
9 receiving the recommended decision pursuant to subdivision (b)  
10 of Section 27722 of the Government Code, shall render a decision.

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13 whether local remedies in the matter have been exhausted and to  
14 provide any additional information deemed useful to the county  
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16 (4) If the interdistrict attendance involves school districts located  
17 in different counties, the county board of education having  
18 jurisdiction over the *school* district denying a permit, or refusing  
19 or failing to enter into an agreement to allow for the issuance of a  
20 permit, shall have jurisdiction for purposes of an appeal. If both  
21 *school* districts deny a permit, or refuse or fail to enter into an  
22 agreement to allow for the issuance of a permit, the county board  
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24 shall have jurisdiction for purposes of an appeal and, upon granting  
25 a pupil’s appeal, shall seek concurrence in the decision by the  
26 county board *of education* of the other county ~~which~~ *that* shall  
27 provide adequate opportunity for the *school* district under its  
28 jurisdiction to be heard on the matter before making a decision. If  
29 the two county boards *of education* do not then concur, the pupil’s  
30 appeal shall be denied.

31 (5) Pupils who are under consideration for expulsion, or who  
32 have been expelled pursuant to Sections 48915 and 48918, may  
33 not appeal interdistrict attendance denials or rescissions while  
34 expulsion proceedings are pending, or during the term of the  
35 expulsion.

36 (d) This section shall become operative on July 1, ~~2015~~ 2018.